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SENATE BILL 319

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

TIMOTHY Z. JENNINGS

AN ACT

RELATING TO CORRECTIONS; REQUIRING INMATES TO EARN MERITORIOUS DEDUCTIONS FROM A TERM OF IMPRISONMENT; REQUIRING INMATES WHO COMMITTED A VIOLENT OFFENSE TO SERVE NOT LESS THAN EIGHTY-FIVE PERCENT OF THEIR TERM OF IMPRISONMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1978, Chapter 40, Section 1, as amended) is repealed and a new Section 33-2-34 NMSA 1978 is enacted to read:

"33-2-34. [NEW MATERIAL] ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS. --

A. An inmate confined in the penitentiary of New Mexico or other state correctional facility for committing a violent offense is eligible to earn meritorious deductions of

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1 up to four days per month upon recommendation of the
2 classification committee and approval by the warden.

3 B. An inmate confined in the penitentiary of New
4 Mexico or other state correctional facility for committing a
5 nonviolent offense is eligible to earn meritorious deductions
6 of up to thirty days per month upon recommendation of the
7 classification committee and approval by the warden.

8 C. In order to earn meritorious deductions, an
9 inmate shall actively participate in a program recommended and
10 approved for him by the classification committee. The
11 classification committee may recommend and approve only
12 education programs, mental health programs, drug or alcohol
13 treatment programs, drug or alcohol counseling programs or
14 work programs.

15 D. An inmate whose record of conduct shows that he
16 has performed exceptionally meritorious service and whose
17 record of conduct shows that he has otherwise faithfully
18 observed the rules of the institution may be eligible for a
19 lump sum meritorious deduction award, not to exceed one year
20 per award and not to exceed a total of one year for all lump
21 sum meritorious deduction awards awarded in any consecutive
22 twelve-month period, which may be deducted from the length of
23 the sentence then remaining unserved. Exceptionally
24 meritorious service shall include heroic acts of saving life
25 or property, but shall not include acts in performance of

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1 normal work duties or program assignments. The classification
2 committee and the warden may recommend the number of days to
3 be awarded in each case based upon the particular merits, but
4 any award shall be determined by the director of adult
5 institutions. Allowance for exceptionally meritorious service
6 shall be in addition to the meritorious deductions provided
7 for in Subsections A and B of this section, and in the event
8 two or more consecutive sentences are being served, the
9 aggregate of the several sentences shall be the basis upon
10 which the deduction shall be computed.

11 E. The meritorious deductions provided for in
12 Subsections A and B of this section shall pertain to both the
13 basic sentence to be served and any enhanced term of
14 imprisonment pursuant to the provisions of the Criminal
15 Sentencing Act. Meritorious deductions of up to ninety days
16 per occurrence shall be permanently forfeited upon
17 recommendation of the classification committee and approval of
18 the warden if the inmate does not properly maintain the
19 standard upon which the award was based. For those inmates,
20 permanent forfeitures in excess of ninety days may be made
21 upon approval of the director of adult institutions. No
22 inmate shall forfeit more than fifty percent of his
23 meritorious deductions accrued during the previous twelve
24 months; and after forfeiture of any portion of an inmate's
25 accrued meritorious deductions, the remainder shall vest and

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1 shall not be subject to further forfeiture. Notwithstanding
2 any other provisions of this act, an inmate may forfeit up to
3 one hundred percent of all accrued meritorious deductions if
4 he commits any of the following:

5 (1) an act of actual personal violence, as
6 defined by the corrections department against:

- 7 (a) another inmate;
- 8 (b) corrections department personnel;
- 9 (c) an employee of a contractor
10 operating on behalf of the corrections department; or

11 (d) any other person lawfully on the
12 premises of a corrections department facility or other
13 facility where department inmates are housed;

14 (2) one positive drug test while
15 incarcerated;

16 (3) escape; or

17 (4) any felonious act.

18 F. An inmate is not eligible to earn meritorious
19 deductions if he:

20 (1) disobeys an order to perform labor,
21 pursuant to Section 33-8-4 NMSA 1978;

22 (2) is in disciplinary segregation;

23 (3) is not actively participating in a
24 program recommended and approved for him by the classification
25 committee; or

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1 (4) is within the first thirty days' receipt
2 by the corrections department and his record from the county
3 jail reflects that he has committed misconduct in the county
4 jail that in the professional judgment of the corrections
5 department should result in a delay of thirty days to begin
6 earning meritorious deductions.

7 G. The provisions of this section shall not be
8 interpreted as providing eligibility to earn meritorious
9 deductions to an inmate during the initial thirty years of a
10 sentence imposed pursuant to the provisions of:

- 11 (1) Subsection A of Section 30-2-1 NMSA 1978;
- 12 (2) Section 31-18-23 NMSA 1978; or
- 13 (3) Section 31-18-25 NMSA 1978.

14 H. The corrections department shall promulgate
15 rules and regulations to implement the provisions of this
16 section, and the rules and regulations shall be matters of
17 public record. A concise summary of the rules and regulations
18 shall be provided to every inmate and every inmate shall
19 receive a quarterly statement of the meritorious deductions he
20 has earned.

21 I. A New Mexico inmate confined in a federal or
22 out-of-state correctional facility is eligible to earn
23 meritorious deductions in the same manner as an inmate
24 imprisoned in a state-run correctional facility on the basis
25 of his inmate conduct reports furnished by those facilities to

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1 the corrections department, subject to approval by the
2 corrections department.

3 J. An inmate imprisoned in a correctional facility
4 that is operated by a public entity or a private company,
5 pursuant to a contract with the corrections department, is
6 eligible to earn meritorious deductions in the same manner as
7 an inmate imprisoned in a state-run correctional facility,
8 subject to approval by the corrections department.

9 K. As used in this section:

10 (1) "great bodily harm" means an injury to
11 the person that creates a high probability of death; or that
12 causes serious disfigurement; or that results in permanent
13 loss or impairment of the function of any member or organ of
14 the body;

15 (2) "nonviolent offense" means any felony
16 offense other than a violent offense or any misdemeanor
17 offense; and

18 (3) "violent offense" means:

19 (a) second degree murder, as provided
20 in Section 30-2-1 NMSA 1978;

21 (b) voluntary manslaughter, as provided
22 in Section 30-2-3 NMSA 1978;

23 (c) assault with intent to commit a
24 violent felony, as provided in Section 30-3-3 NMSA 1978, which
25 results in great bodily harm;

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1 (d) criminal sexual penetration, as
2 provided in Section 30-9-11 NMSA 1978; and
3 (e) robbery, as provided in Section
4 30-16-2 NMSA 1978, which results in great bodily harm "

5 Section 2. Section 33-2-36 NMSA 1978 (being Laws 1988,
6 Chapter 78, Section 6) is amended to read:

7 "33-2-36. FORFEITURE OF EARNED MERITORIOUS DEDUCTIONS. --
8 [~~Any accrued deductions may be forfeited by the convict for~~
9 ~~any major conduct violation upon the recommendation of the~~
10 ~~classification committee, approval by the warden and final~~
11 ~~approval by the secretary of corrections.]~~

12 A. Meritorious deductions earned by an inmate may
13 be forfeited by that inmate for any major conduct violation
14 upon the recommendation of the classification committee,
15 approval by the warden and final approval by the secretary of
16 corrections.

17 B. The provisions of this section also apply to
18 forfeiture of earned meritorious deductions for an inmate
19 imprisoned in a correctional facility operated by a public
20 entity or a private company, pursuant to a contract with the
21 corrections department. "

22 Section 3. Section 33-2-37 NMSA 1978 (being Laws 1988,
23 Chapter 78, Section 7) is amended to read:

24 "33-2-37. RESTORATION OF FORFEITED MERITORIOUS
25 DEDUCTIONS. --

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1 A. Meritorious deductions forfeited under Section
2 33-2-36 NMSA 1978 may be restored in whole or in part to [~~any~~
3 ~~prisoner~~] an inmate who is exemplary in conduct and work
4 performance for a period of not less than [~~six~~] twelve months
5 following the date of forfeiture. Meritorious deductions may
6 be restored upon recommendation of the classification
7 committee, approval by the warden and final approval by the
8 secretary of corrections.

9 B. The provisions of this section also apply to
10 restoration of earned meritorious deductions for an inmate
11 imprisoned in a correctional facility operated by a public
12 entity or a private company, pursuant to a contract with the
13 corrections department. "

14 Section 4. Section 33-2-38 NMSA 1978 (being Laws 1889,
15 Chapter 76, Section 13, as amended) is amended to read:

16 "33-2-38. COMPUTATION OF TERM. -- [Sec. 54. ~~No convict~~] An
17 inmate shall not be discharged from the penitentiary of New
18 Mexico or other correctional facility until he has [~~remained~~]
19 served the full term for which he was sentenced. [~~to be~~] The
20 term shall be computed from and [including] include the day on
21 which his sentence took effect and [~~excluding~~] shall exclude
22 any time the [~~convict~~] inmate may have been at large by reason
23 of escape [~~therefrom~~], unless he [~~may be~~] is pardoned or
24 otherwise released by legal authority. [~~Provided that nothing~~
25 ~~in~~] The provisions of this section shall [be so construed as]

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1 not be interpreted to deprive [~~any convict~~] an inmate of any
2 reduction of time to which he may be entitled [~~to under §~~
3 ~~5070-~~] pursuant to the provisions of Section 33-2-34 NMSA
4 1978. "

5 Section 5. APPLICABILITY. --The provisions of this act
6 apply to persons convicted of a criminal offense committed on
7 or after July 1, 1998. As to persons convicted of a criminal
8 offense committed prior to July 1, 1998, the laws with respect
9 to the vesting of meritorious deductions in effect at the time
10 the offense was committed shall apply.

11 Section 6. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 5, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
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12 SENATE BILL 319
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14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 FINANCE COMMITTEE.
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19 Respectfully submitted,
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Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 13, 1998

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8 Mr. President:

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10 Your FINANCE COMMITTEE, to whom has been referred

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12 SENATE BILL 319

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14 has had it under consideration and reports same with recommendation
15 that it DO PASS.

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18 Respectfully submitted,

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23 Ben D. Altamirano, Chairman
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Adopted _____ Not Adopted _____
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The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Cararro, Eisenstadt, Ingle, Lyons, McKibben

Absent: None

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